

SAN JACINTO RIVER AUTHORITY

RATE ORDER

(RAW WATER CUSTOMERS)

ORDER NO. 2021-O-03

ADOPTED: AUGUST 26, 2021

EFFECTIVE: JANUARY 1, 2022

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SAN JACINTO RIVER AUTHORITY

RATE ORDER

(RAW WATER CUSTOMERS)

THE STATE OF TEXAS §
COUNTIES OF HARRIS AND MONTGOMERY §

RECITALS

WHEREAS, the San Jacinto River Authority (the "Authority"), is a conservation and reclamation district, body politic and corporate and a governmental agency of the State of Texas created and operating under the provisions of Chapter 426, Acts of the 45th Texas Legislature, Regular Session, 1937, as amended, enacted pursuant to the provisions of Section 59 of Article XVI of the Texas Constitution (the "Act"); and

WHEREAS, the Authority is the holder of permits and other rights for the storage, diversion and withdrawal of water from Lake Conroe, the San Jacinto River, Lake Houston, and the Trinity River ("Raw Water"); and

WHEREAS, the Authority has entered into certain contracts with customers (the "Raw Water Contracts") for the sale of Raw Water to such customers ("Raw Water Customers"); and

WHEREAS, the Raw Water Contracts generally provide that the Authority may establish and adjust the rates for the sale of Raw Water from time to time, and may also provide that the Authority may establish and adjust fees for the reservation of Raw Water for future purchase; and

WHEREAS, the Authority has entered into certain contracts (the "Customer Contracts") for the financing, construction and operation of the Woodlands Water Supply System (as defined in the Customer Contracts) to serve the conservation and reclamation district customers of the Woodlands Division of the Authority; and

WHEREAS, each of the Customer Contracts has been amended and supplemented by a written addendum, dated as of November 10, 2009 (the "Addenda"), in order to address compliance with groundwater reduction requirements imposed by the Lone Star Groundwater Conservation District (the "Conservation District") and that are applicable to the Authority and the Woodlands Water Supply System; and

WHEREAS, the Authority has entered into contracts (the "GRP Contracts") with certain Large Volume Groundwater Users (as defined in the rules of the Conservation District) in order to address compliance with groundwater reduction requirements imposed by the Conservation District that are also applicable to the water supply systems of such Large Volume Groundwater Users; and

WHEREAS, the Groundwater Reduction Plan Division of the Authority ("GRP Division") has heretofore been created to manage the Authority's operations and responsibilities under the Addenda and the GRP Contracts; and

WHEREAS, the Addenda and the GRP Contracts provide for reservation and sale of Raw Water to the GRP Division for subsequent treatment, distribution, and use as a source of potable water supply in accordance with the Groundwater Reduction Plan administered by the GRP Division; and

WHEREAS, the Addenda and the GRP Contracts provide that the Authority may adjust the reservation fee and/or the rate for the sale of Raw Water to the GRP Division from time to time; and

WHEREAS, the Board of Directors of the Authority has determined to adjust its rate for the sale of Raw Water under the Raw Water Contracts and to the GRP Division pursuant to the Addenda and the GRP Contracts; and

WHEREAS, the Board of Directors of the Authority has determined to continue in effect the uniform Raw Water reservation fee chargeable to Raw Water customers and/or to the GRP Division in consideration for the Authority's undertaking to hold and reserve such Raw Water and to refrain from making long-term contracts with others for the sale and use of such Raw Water; and

WHEREAS, the Board of Directors of the Authority has determined to make certain provisions for the short-term reservation and/or sale of Raw Water, at fees and rates to be determined by the General Manager of the Authority, or a designee of the General Manager, within specified parameters, and to also make provisions for the assessment and collection of application fees for certain raw water sales contract requests;

NOW THEREFORE, be it ordered by the Board of Directors of the San Jacinto River Authority that:

ARTICLE I

FINDINGS; EFFECTIVE DATE; APPLICABILITY

Section 1.01: Findings. Each of the recitals stated in this Rate Order are hereby adopted as findings of fact of the Board of Directors. All statutory and contractual requirements and conditions have been met for the establishment of fees, rates, and charges under this Rate Order.

Section 1.02: Effective Date; Prior Resolutions or Orders. This Rate Order shall be effective as of January 1, 2022. That certain prior Rate Order pertaining to the sale and/or reservation of Raw Water, as passed and approved by the Board of Directors of the Authority on August 27, 2020, and effective as of January 1, 2021, is repealed and superseded hereby in all respects as of January 1, 2022.

Section 1.03: Applicability. This Rate Order shall be applicable to all reservations and sales of Raw Water under any Raw Water Contract, and to the reservation and sale of Raw Water to the GRP Division.

ARTICLE II

DEFINITIONS; INTERPRETATIONS; REFERENCES

Section 2.01: Definitions. In addition to terms defined elsewhere in this Rate Order, and unless the context requires otherwise, the following terms used in this Rate Order shall have the following meanings and, to the extent applicable, shall serve to supplement terms defined elsewhere in this Rate Order:

(a) "Act" is defined in the recitals hereto and means and includes any amendments to the Act.

(b) "Addenda" is defined in the recitals hereto and means and includes any amendments or supplements to the Addenda.

(c) "Authority" is defined in the recitals hereto and means and includes the legal successors or assigns of the Authority.

(d) "Customer Contracts" is defined in the recitals hereto and means and includes any amendments or supplements to the Customer Contracts.

(e) "GRP Contracts" is defined in the recitals hereto and means and includes any amendments or supplements to the GRP Contracts, and any substantially similar contract or contracts hereafter entered into by the Authority with a Large Volume Groundwater User or Large Volume Groundwater Users relative to achieving compliance with the Conservation District's groundwater reduction requirements.

(f) "Raw Water" is defined in the recitals hereto and shall mean and include all untreated surface water in Lake Conroe, the San Jacinto River, Lake Houston, and the Trinity River, to which the Authority has rights, powers, and authority under or evidenced by Certificate of Adjudication Nos. 10-4963, 10-4964, and 08-4279, and Water Permit Nos. 5271, 5807, 5808, 5809, and 13183, as amended, issued by the Texas Commission on Environmental Quality or its predecessors, all untreated groundwater to which the Authority has rights, powers and authority and all future raw water rights; provided, however, that such term does not include any part of the City of Houston's two-thirds interest in untreated surface water in Lake Conroe under or evidenced by Certificate of Adjudication Nos. 10-4963.

(g) "Raw Water Contracts" is defined in the recitals hereto and means and includes any amendments or supplements to the Raw Water Contracts, and any substantially similar contract or contracts hereafter entered into by the Authority customer relative to the sale of Raw Water.

(h) "Raw Water Rate" shall mean the rate set forth in Section 3.01(a) hereof applicable to the sale of Raw Water to customers pursuant to the Raw Water Contracts, or to the GRP Division pursuant to the Addenda and the GRP Contracts.

(i) "Reservation Fee" shall mean the fee shall mean the fee set forth in Section 3.02(a) hereof applicable to the commitment and reservation by the Authority of Raw Water for future use by a customer pursuant to a Raw Water Contract, or by the GRP Division.

(j) "Short-Term Raw Water Contract" shall mean any Raw Water Contract with a term of less than one year.

Section 2.02: Interpretations. The article, section, and subsection headings of this Rate Order are included herein for convenience of reference purposes only and shall not constitute a part of this Rate Order or affect its interpretation in any respect. Except where the context otherwise requires, words imparting the singular number shall include the plural and vice versa. References to an entity refer to the legal successors of such entity, and to the board of directors, officers, or other officials of such entity where appropriate.

Section 2.03: References. Any reference in this Rate Order to a document shall mean such document and all exhibits thereto as amended or supplemented from time to time.

ARTICLE III

RAW WATER RATE; RESERVATION FEE

Section 3.01: Prevailing Raw Water Rate. (a) Unless otherwise agreed in writing, the prevailing Raw Water Rate shall equal \$166.18 per acre-foot (\$0.5100 per 1,000 gallons) as of and after January 1, 2022.

(b) The various provisions of the Raw Water Contracts, the Addenda, and the GRP Contracts shall govern all matters other than the prevailing rate for the sale of Raw Water, including but not limited to quality, quantity, diversion rates, diversion points, operations, repairs, maintenance, re-sales or exchanges, metering, billing, payment, credits against the Raw Water Rate, collections, late fees, penalties and interest, shortages or water and force majeure, in respect of the sale of Raw Water thereunder.

(c) Unless otherwise agreed in writing, the provisions of this Section, including but not limited to the prevailing Raw Water Rate set forth in subsection (a), shall not apply to Short-Term Raw Water Contracts, which contracts are the subject of Article IV hereof.

Section 3.02: Prevailing Reservation Fee. (a) Unless otherwise agreed in writing, the prevailing Reservation Fee shall equal twenty-five percent (25%) of the Raw Water Rate.

(b) The Reservation Fee shall be chargeable to each Raw Water customer of the Authority, and to the GRP Division, for the reservation and commitment by the Authority of Raw Water for future use. The Reservation Fee shall not be applicable to Raw Water purchased at the Raw Water Rate by a customer pursuant to a Raw Water Contract (i.e., all Raw Water under a "take or pay" contract, or any Raw Water actually used under a "requirements" contract), or by the GRP Division, but shall only apply to Raw Water reserved or committed, but not actually used by such customer or by the GRP Division.

(c) Unless otherwise agreed in writing, the Reservation Fee shall be payable monthly. The various provisions of the Raw Water Contracts, the Addenda, and the GRP Contracts shall govern all matters other than the prevailing fee for the reservation of Raw Water for future purchase, including but not limited to quantity, metering, billing, payment, credits against the Reservation Fee, collections, late fees, penalties and interest, in respect of the reservation of Raw Water thereunder.

(d) Unless otherwise agreed in writing, the provisions of this Section, including but not limited to the prevailing Reservation Fee set forth in subsection (a), shall not apply to Short-Term Raw Water Contracts, which contracts are the subject of Article IV hereof.

ARTICLE IV

SHORT-TERM RAW WATER CONTRACTS; APPLICATION FEES

Section 4.01: Short-Term Raw Water Contract Rates and Reservation Fees. The Board of Directors finds and declares that the adoption of a uniform fee for the reservation of Raw Water for future purchase, and the adoption of a uniform rate for the sale of Raw Water, are not practicable with respect to Short-Term Raw Water Contracts, as the transitory nature of customer demand for short-term Raw Water supply does not generally afford the Board of Directors a reasonable opportunity to study, develop, consider and adopt applicable fees, rates, and customer classes. Therefore, the General Manager of the Authority, or a designee of the General Manager, shall be authorized to approve fees for the reservation of Raw Water for future purchase, and rates for the sale of Raw Water, under Short-Term Raw Water Contracts from time to time, and on a case by case basis, as deemed appropriate; provided, however, that such a reservation fee shall not be in excess of four times the fee specified under Section 3.02(a) hereof, and such Raw Water rate shall not be in excess of four times the rate specified under Section 3.01(a) hereof.

Section 4.02: Application Fees. The General Manager of the Authority shall be authorized to adopt a reasonable and uniform fee or schedule of fees for the processing of an application (or other form of request) for a Raw Water Contract for the sale, based on reasonable expectations, of less than ten (10) acre-feet of Raw Water in total during the term of such contract. The General Manager of the Authority, or a designee of the General Manager, may publish, impose and collect such application fees from time to time. Such fee or schedule of fees shall not exceed \$500 in total, as applied to any single application.

ARTICLE V

MISCELLANEOUS

Section 5.01: Raw Water Contracts; Addenda; GRP Contracts. In the event that any provision of this Rate Order is in conflict with any provision of the Raw Water Contracts, the Addenda, or the GRP Contracts, then the terms and provisions of this Rate Order shall control only with respect to the prevailing Raw Water Rate, Reservation Fee or short-term Raw Water Rate, and the Raw Water Contracts, the Addenda, or GRP Contracts shall control with respect to any other matter.

Section 5.02: Future Amendments. As determined necessary by the Authority, the Authority reserves the right to amend from time to time: (1) the rates, charges and fees contained in this Rate Order; and (2) any other terms and provisions of this Rate Order.

PASSED AND APPROVED on August 26, 2021.

ATTEST:



Secretary, Board of Directors

SAN JACINTO RIVER AUTHORITY:



President, Board of Directors



CERTIFICATE

THE STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

I, the undersigned General Manager of the San Jacinto River Authority (the "Authority"), hereby certify as follows:

1. That I am the duly qualified and acting General Manager of the Authority, and that as such, I have custody of the minutes and records of the Authority.

2. That the Board of Directors of the Authority convened in Regular Session on August 26, 2021, via Internet webinar pursuant to Texas Government Code, Section 551.125, as amended, and as modified by the temporary suspension of various provisions thereof effective March 16, 2020, by the Governor of Texas in accordance with the Texas Disaster Act of 1975, all as related to the Governor's proclamation on March 13, 2020, certifying that the COVID-19 pandemic poses an imminent threat of disaster and declaring a state of disaster for all counties in Texas,, and the roll was called of the duly constituted officers and members of the Board of Directors, to-wit:

- | | |
|-----------------------|---------------------|
| Ronald W. Anderson | President |
| Charles "Ed" Boulware | Vice President |
| William "Wil" Faubel | Secretary |
| Mark Micheletti | Treasurer |
| Ricardo Mora | Assistant Secretary |
| Stacey Buick | Director |
| Vacant Position | |

and all of said persons were present, except Director(s) N/A, thus constituting a quorum, whereupon, among other business, the following was transacted at such meeting: a written

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was duly introduced for the consideration of the Board of Directors. It was then duly moved and seconded that such Order be adopted and, after due discussion, such motion, carrying with it the adoption of such Order, prevailed and carried by the following vote:

AYES: 5
NOES: 0
ABSTENTIONS: 1

3. That a true and correct copy of such Order adopted at such meeting is attached to and follows this certificate; that such Order has been duly recorded in the minutes of the Board of Directors for such meeting; that the persons named in the above and foregoing Paragraph 2. were the duly chosen, qualified and acting officers and members of the Board of Directors as indicated therein, that each was duly and sufficiently notified officially and personally, in advance, of the time and purpose of such meeting, as well as how to access and participate in same, and that such Order would be introduced and considered for adoption at such meeting, and that each consented in advance, to the holding of such meeting for such purpose; that the canvassing of the officers and members of the Board of Directors present at and absent from such meeting and of the votes of each on such motion, as set forth in the above and foregoing Paragraph 2., is true and correct; that such meeting was open to the public as required by law; and that sufficient and timely notice of the hour, date, and subject of such meeting, as well as how to access and participate in same, was given and posted as required by Chapter 551, Texas Government Code, as amended and as modified by the temporary suspension of various provisions thereof by the foregoing proclamation issued by the Governor of the State of Texas.

SIGNED AND SEALED the 26th day of August, 2021.

A handwritten signature in black ink, written over a horizontal line. The signature is stylized and appears to be "J. A. ...".

General Manager